



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

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Contact: Maria Velasquez, Communications Director: (619) 235-5725 (pager & voicemail) mvelasquez@saniego.gov

CITY ATTORNEY AGUIRRE URGES COUNCILMEMBERS TO RELEASE UNBLACKED-OUT LEGAL DEFENSE BILLS

San Diego, CA: City Attorney Michael Aguirre is asking Councilmembers Scott Peters, Jim Madaffer, Brian Maienschein and Toni Atkins to release unblacked-out copies of their legal defense bills. The bills from January '05 – November '05 amount to almost \$1 million of taxpayers' money, and are in connection to the ongoing United States Securities and Exchange Commission's (SEC) civil investigation into the City's financial practices and the estimated \$2 billion employee pension deficit. To-date, the Councilmembers' legal defense bills are closer to \$1.5 million.

"The majority of the legal bills were blacked-out, robbing the public of their right to confirm that the money was indeed solely used for private counsel in connection with the SEC investigation," said City Attorney Michael Aguirre. "Upon closer inspection, we found numerous instances where taxpayer's are footing the bill for private legal counsel discussions with other public officials. Those communications are not protected by the attorney-client privilege and are not authorized."

At today's news conference, City Attorney Aguirre also cited a relevant case from the Kansas Supreme Court related to public disclosure of a municipality's outside legal counsel bills. The Court ruled that the legal bills were exempt from the attorney-client privilege or work product doctrine because of Kansas' Open Records Act. The Court ruled that the Kansas Open Records Act, which is the equivalent to California's Public Records Act, "outweighs any contrary policy argument the City makes in this case." In this matter, the City of Overland Park was ordered to produce unredacted copies of all 1996 attorney fee billing statements.

The SEC launched its investigation in February 2004. Then-City Attorney Casey Gwinn hired the law firm of Vinson & Elkins to represent the City before the SEC. After learning they would be deposed by the SEC, individual City Councilmembers retained their own private legal counsel. City Attorney Aguirre assumed office December 6, 2004. He agreed with Gwinn that the City Attorney could not serve as the legal counsel for individual council members in these investigations.

"Councilmembers retained private attorneys because of the alleged wrong-doing they committed back in 2002, and not because of anything the City Attorney has said or done," said Aguirre.

Another concern of Aguirre's is that the redacted legal bills of some Councilmembers clearly show that their private attorneys are coordinating their cases with other lawyers who are representing other City officials who are being prosecuted by the U.S. Attorney and the District Attorney in connection with the City's financial disclosure practices and the pension system.

"Taxpayers are being billed for former Mayor Dick Murphy's private attorney's conversations with criminal defense attorney Jerry Coughlan, who is representing former Pension Official Ron Saathoff in the D.A. and U.S. Attorney's criminal cases," said City Attorney Aguirre. "Those legal bills should not be charged to the City, since they have nothing to do with authorized legal representation before the SEC."

In addition, the City Attorney has also found numerous legal bills indicating that certain defense attorneys are billing for conversations with Kroll, Inc., the company hired by the City to review and reconcile the investigative reports of Vinson & Elkins and the City Attorney.

"This shows to me there is collusion with the Councilmembers," said Aguirre. "The Councilmembers were not authorized to retain counsel with respect to the investigative work Kroll is conducting. Furthermore, to-date, Kroll has refused to submit detailed bills of their own work which is not appropriate."

At the news conference, the City Attorney also released two letters from Kroll requesting an additional \$3 million to complete its investigation, and additional \$100,000 for Price Waterhouse Coopers to complete an actuarial analysis of the pension system. That's in addition to the \$10 million that the City Council approved this past January at which time Kroll promised its investigative report would be concluded by May of this year. City Attorney Aguirre has continued to ask the City to refuse payment until Kroll provides the public with detailed bills of their work.

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